

No. 15416.

IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

VICTOR MANUEL GIL,

Appellant,

vs.

ALBERT DEL GUERCIO, etc.,

Appellee.

APPELLANT'S REPLY BRIEF.

JOHN P. TOBIN,

6331 Hollywood Boulevard,
Los Angeles 28, California,

Attorney for Appellant.

FILED

MAY 14 1957

PAUL P. O'BRIEN, CLERK

No. 15416.

IN THE

United States Court of Appeals

FOR THE NINTH CIRCUIT

VICTOR MANUEL GIL,

Appellant,

vs.

ALBERT DEL GUERCIO, etc.,

Appellee.

APPELLANT'S REPLY BRIEF.

Reply to Appellee's Argument.

Appellee's brief, page 7, contains the following:

"Appellant next argues that voluntary departure was denied for reasons not indicated on the record, and that at one point on the proceedings it was indicated that appellant would be granted voluntary departure and this was later withdrawn."

Appellant directs this Honorable Court's attention to page 2 of the decision of Special Inquiry Officer where it states:

"At the time of his last apprehension he refused to make a statement or sign any papers on the advice of counsel. *He was also offered the voluntary departure privilege at that time and refused it.*" (Emphasis supplied.)

The transcript of the hearing, page 5, shows that appellant answered that the reason he refused to make a statement at *that time* was:

“I had been advised by my attorney not to sign or say anything *until I saw him.*” (Emphasis added.)

As appellant pointed out in his opening brief, page 13, the question is can one subordinate of the Attorney General offer the discretionary privilege and another refuse it when there is no change of circumstance, save and except the exercise of the right of counsel. Appellee ducks the issue.

The Judgment of the trial court is erroneous and should be reversed.

Respectfully submitted,

JOHN P. TOBIN,

Attorney for Appellant.